

Mr. McCONNELL. I have yielded the floor. The Senator can feel free to make a statement.

Mr. DURBIN. I was hoping to ask the Senator from Kentucky a question.

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. McCONNELL. Mr. President, I understand the majority leader was asking about clearing some military promotions earlier today. I wanted to indicate—and I see the assistant majority leader is here—we are clear with those and never had an issue with these particular promotions. Therefore, I suggest that we call them up and confirm them immediately.

Unless there is an objection from the other side, and having notified the other side, I ask unanimous consent that the Senate proceed to executive session to consider the following military promotions: Calendar Nos. 192, 193, and 194. I further ask unanimous consent that these nominations be confirmed en bloc, the motions to reconsider be laid upon the table, that the President be immediately notified of the Senate's action, and that the Senate then resume legislative session.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The nominations considered and confirmed are as follows:

IN THE AIR FORCE

The following named officer for appointment in the United States Air Force to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be general

Lt. Gen. Douglas M. Fraser

IN THE ARMY

The following named officer for appointment in the United States Army to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be general

Lt. Gen. Stanley A. McChrystal

IN THE NAVY

The following named officer for appointment in the United States Navy to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be admiral

Adm. James G. Stavridis

LEGISLATIVE SESSION

The PRESIDING OFFICER. The Senate will now return to legislative session.

The Senator from Illinois.

GUANTANAMO

Mr. DURBIN. Mr. President, I want to make my comments about the minority leader's statement on the floor while he is still here. If he is willing to stay, we can engage in a dialog on this issue. I think it is time we do come to

the floor together, along with the Republican whip, and at least make it clear what our positions are on some of these issues related to Guantanamo because it has been a matter of concern and a lot of comment on the floor of the Senate over the last several weeks.

I was going to ask the Senator from Kentucky, the minority leader, whether I understood him correctly when he said he believed that this individual, Ahmed Ghailani, if found not guilty in a court in the United States, would be released in the United States to stay here in a legal status. I wish to ask the Senator, if that is what he said, what is the basis for that statement?

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. McCONNELL. Mr. President, I can only repeat what the President's spokesman himself said. I am responding to the question propounded to me by the Senator from Illinois. It is my understanding the President's spokesman yesterday refused to say what would happen to Ghailani if he were found not guilty. So there is some confusion about that.

Mr. DURBIN. There is no confusion. This is such a leap to argue that if this man, who is not a resident of the United States—if I am not mistaken, he is Tanzanian—that somehow if he is found not guilty in the courts of the United States, he is qualified to be released into our population. That is a statement—I don't know anyone could draw that conclusion. He would have no legal status to stay in the United States unless we gave him one.

By what basis does the Senator from Kentucky suggest that this man, who may have been involved in the killing of 12 Americans among 224 other people, is going to be released by President Obama into our communities and neighborhoods?

Mr. McCONNELL. Is the Senator asking me a question?

Mr. DURBIN. I am.

Mr. McCONNELL. Let me say I am only quoting the President's spokesman. He says he doesn't know what would happen if Ghailani is released.

Let me say to the Senator from Illinois, let's assume that he is sent back to the country from which he came. I ask, in what way is America safer if this terrorist subsequently, under this hypothetical release in the United States, goes back to his native country from which he potentially could launch another attack on the United States?

Mr. DURBIN. I say in response, my colleague from Kentucky is gifted at the political craft. He has decided not to answer my question but to ask a question of me.

I say first that his assertion that this man, Ahmed Ghailani, if found not guilty would be released in the communities and neighborhoods of America cannot be sustained in law or in fact. He made that statement on the floor. That is the kind of statement that has been made about these Guantanamo detainees.

I don't know what will happen to Mr. Ghailani if he is found not guilty. It is conceivable that he could be charged with other things. It is conceivable he could face a military tribunal. It is conceivable he may be subject to detention.

I will say this with certainty. President Obama will not allow dangerous terrorists to be released in the United States in our communities and neighborhoods. I hope everyone on both sides of the aisle would agree with that.

I also wish to ask, if the Senator from Kentucky is critical of President Obama for announcing that he was going to close Guantanamo before he had a plan, why didn't we hear the same complaint when President George W. Bush announced he was going to close Guantanamo before he had a plan? Is the difference partisan?

Mr. McCONNELL. I say to my friend from Illinois, he has made this point before, and I answered it before. I will answer it again.

I was against it when President Bush was in favor of it. I have been consistently against closing Guantanamo all along the way, no matter who the President was. At least you could say this about President Bush: He didn't put a date on it before he had an idea what he was going to do with them. And that is the core issue here.

Mr. DURBIN. The core issue is for 7 long years, the Bush administration failed to convict the terrorists who planned the 9/11 terrorist attacks—for 7 years. And for 7 long years, only three individuals were convicted by military commissions at Guantanamo, and two of them have been released. So to argue that the Guantanamo model is one that ought to be protected and maintained, notwithstanding all of the danger it creates for our servicemen overseas to keep Guantanamo open, is to argue for a plan under the Bush administration that failed to convict terrorists, failed with military tribunals and through the courts of this land.

I have to say that as I listen to the argument of the Senator from Kentucky, it is an argument based on fear—fear—fear that if we try someone in a court in America, while they are incarcerated during trial, we need to be afraid. There was no fear in New York for more than 2 years while Ramzi Yousef was held in preparation for trial and during trial because he was held in a secure facility.

Today we are told by the Department of Justice that there are 355 convicted terrorists in American prisons. I ask the Senator from Kentucky, does he believe we should remove them from our prisons, those already convicted, currently serving, such as Ramzi Yousef?

Mr. McCONNELL. I say to my friend from Illinois, maybe we found an area of agreement. He is critical of the Bush administration for not conducting military tribunals more rapidly. I agree with him. I think they should have been tried more rapidly. But that